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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,303	08/20/2003	Lawrence Peska	IHC-001US(PAR)	6035
7590	08/02/2004		EXAMINER	
David Aker 23 Southern Road Hartsdale, NY 10530			PERRIN, JOSEPH L	
			ART UNIT	PAPER NUMBER

1746

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,303

Applicant(s)

PESKA, LAWRENCE

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 17-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, drawn to an apparatus, classified in class 068, subclass 213.
 - II. Claims 17-24, drawn to a method for washing a brassiere, classified in class 008, subclass 159.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, such as a method for washing hats or a method of cleaning small parts or jewelry.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mr. David Aker on 26 July 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

7. The disclosure is objected to because of the following informalities: There appears to be a typographical errors in the specification:

On page 3, line 2, "wash d" should be corrected to --washed--.

On page 3, line 22, "filed" should be corrected to --filled--.

On page 4, line 16, "stiffer" should be corrected to --stiffener--.

On page 7, line 1, "shap" should be corrected to --shape--.

On page 9, line 1, "t" should be corrected to --to--, and "f lded" should be corrected to --folded--.

On page 9, line 3, "align d" should be corrected to --aligned--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 6-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. In claims 6 & 9, the term "stiffener" renders the claim indefinite since it is unclear from the original disclosure whether the stiffener is a part of the frame (as disclosed in the specification, e.g. the drawings) or whether the stiffener and frame are separate parts of the apparatus (as being claimed). As best understood from the original disclosure (especially the drawings) the stiffener is a part of the frame, and the claims will be examined accordingly. However, clarification and correction are still required.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-6, 9, & 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,320,429 to Toyosawa.

Toyosawa discloses a dome-shaped brassiere washing apparatus including a frame (upper member 2 & lower member 3) forming an endless pocket, flow through mesh (nets 4, 5, 6) on the frame, and a zipper (3b/3e) with zipper cover 3d for openably closing the opening of the apparatus, and oval shape (Figure 3) (see also Figures 1-2, 4; col. 2, line 37 – 57; and col. 3, lines 1-

26). The frame portions are readable on applicant's claimed "stiffener" since the frame must have stiffening characteristics since Toyosawa discloses the use "for effectively protecting a brassiere placed therein from being deformed out of shape when it is laundered" (see col. 1, lines 60-64).

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

14. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

15. Claims 1-4, 6, 9, 12-13 & 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,536,952 to Hsieh.

Re claims 1, 3-4, 6, 9, 12-13 & 16, Hsieh discloses a laundry washing apparatus including a dome-shaped (see Figure 4) frame 20 including stiffener support tubes 21 with mesh walls forming an endless pocket 10 with an opening and a zipper 11 (see Figures 1, 2 & 4, and col. 2, lines 21-59).

Re claims 2 & 15, Hsieh further discloses an oval shape (ellipsoidal, see col. 2, line 55).

Recitation of Hsieh reads on applicant's claimed invention.

Allowable Subject Matter

16. Claims 7-8 & 10-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Hsieh and Toyosawa, fail to teach each and every limitation of the instant invention. Specifically, Hsieh and Toyosawa fail to teach or suggest the claimed cleaning apparatus further including stiffener frame portions that either overlap or are telescopically arranged for the purpose of increased flexibility to create a pumping/washing action in a meshed washing apparatus, which is disclosed as an essential element of claimed invention, as described in dependent claims 7-8 & 10-11.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US 6,742,683 to Phan, US 6,234,368 to DesForges *et al.*, US 5,971,236 to DesForges *et al.*, US 5,829,083 to Sutton, US 5,556,013 to Mayer, US

4,974,967 to Tsuyoshi *et al.*, which each disclose a washing apparatus with a dome-shaped frame and mesh/perforated walls.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph L. Perrin, Ph.D.
Examiner
Art Unit 1746



jlP